

# HOUSE . . . . . No. 817

By Mr. Linsky of Natick, petition of David Paul Linsky and others for legislation to prevent the illegal trafficking of firearms. The Judiciary.

## The Commonwealth of Massachusetts

### PETITION OF:

David Paul Linsky	Alice Hanlon Peisch
Ruth B. Balser	Deborah D. Blumer
Karen E. Spilka	

In the Year Two Thousand and Five.

### AN ACT TO PREVENT THE ILLEGAL TRAFFICKING OF FIREARMS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Subclause (j) of clause twenty-sixth of section 7  
2 of chapter 4 of the General Laws, as appearing in the 1998 Offi-  
3 cial Edition, is hereby amended by inserting after the word  
4 “cards”, in line 178, the following words:— , but such names and  
5 addresses shall be made available to law enforcement or other  
6 investigative officials, including district attorneys, assistant dis-  
7 trict attorneys, the attorney general and assistant attorneys general  
8 for purposes of enforcing violations of subsection (c) of sec-  
9 tion 131E of chapter 140.

1 SECTION 2. Subsection (d) of section 10 of chapter 66 of the  
2 General Laws, as so appearing, is hereby amended by inserting  
3 after the word “six”, in line 60, the following words:— , includ-  
4 ing, but not limited to, such agencies enforcing violations of sub-  
5 section (c) of section 131E of chapter 140.

1 SECTION 3. Section 123 of chapter 140 of the General Laws,  
2 as so appearing, is hereby amended by inserting after the word  
3 “condition.”, in line 229, the following sentence:— Twenty-  
4 second, That no licensee shall sell, rent or lease a firearm or large

5 capacity weapon without first obtaining a written declaration from  
6 the purchaser, renter or lessor that such individual has not pur-  
7 chased, rented or leased, as those terms are used in subsection ( c )  
8 of section 131E of this chapter, any firearm or large capacity  
9 weapon during the previous 30 days, or that such individual is an  
10 exempt person as set forth under subsection ( c ) of section 131E  
11 of this chapter. Such declaration shall not be a defense in any  
12 action brought against a licensee relative to the enforcement of  
12 subsection (c) of section 131E of this chapter.

1 SECTION 4. Section 128A of said chapter 140 of the General  
2 Laws, as so appearing, is hereby amended by inserting after the  
3 word “transfers”, in line 9, the following words:— in compliance  
4 with subsection (c) of section 131E of this chapter.

1 SECTION 5. Paragraph (1) of section 129B of said chapter 140,  
2 as so appearing, is hereby amended by adding the following three  
3 clauses:—

4 (viii) is currently subject to: (a) an order for suspension or sur-  
5 render issued pursuant to section 3B or 3C of chapter 209A or a  
6 similar order issued by another jurisdiction; or (b) a permanent or  
7 temporary protection order issued pursuant to chapter 209A or a  
8 similar order issued by another jurisdiction;

9 (ix) is currently the subject of an outstanding arrest warrant in  
10 any state or federal jurisdiction; or

11 (x) has been convicted of purchasing, renting or leasing more  
12 than one firearm or large capacity weapon in any 30 day period in  
13 violation of subsection (c) of section 131E of this chapter.”

1 SECTION 6. Paragraph (d) of section 131 of said chapter 140,  
2 as so appearing, is hereby amended by the following three sub-  
3 paragraphs:—

4 (vi) is currently subject to: (A) an order for suspension or sur-  
5 render issued pursuant to section 3B or 3C of chapter 209A or a  
6 similar order issued by another jurisdiction; or (B) a permanent or  
7 temporary protection order issued pursuant to chapter 209A or a  
8 similar order issued by another jurisdiction;

9 (vii) is currently the subject of an outstanding arrest warrant in  
10 any state or federal jurisdiction; or

11 (viii) has been convicted of purchasing, renting or leasing more  
12 than one firearm or large capacity weapon in any 30 day period in  
13 violation of subsection (c) of section 131E of this chapter.”

1 SECTION 7. Section 131½ of said chapter 140, as so  
2 appearing, is hereby amended by striking out the second sentence  
3 and inserting in place thereof the following sentence:— The board  
4 shall consist of nine individuals, one of whom shall be a member  
5 of the gun owners action league, one of whom shall be a member  
6 of stop handgun violence, one of whom shall be a police chief  
7 selected from a list of four selected by the police chiefs associa-  
8 tion, one of whom shall be the director of the firearms record  
9 bureau within the criminal history systems board and one of  
10 whom shall be a district attorney or his designee.

1 SECTION 8. Section 131A of said chapter 140 of the General  
2 Laws, as so appearing, is hereby amended by inserting after the  
3 words “proper purpose”, in line 5, the following words:— and  
4 does not violate the firearm or large capacity weapon purchase,  
5 rental or lease limitation in subsection (c) of this chapter.

1 SECTION 9. Section 131E of said chapter 140 of the General  
2 Laws, as so appearing, is hereby amended by adding the following  
3 subsection:—

4 (c) no person, other than an exempt person hereinafter  
5 described, shall purchase, rent or lease more than one firearm or  
6 large capacity weapon in any 30 day period. The term “rent or  
7 lease” as used herein shall not apply to the rental or lease of a  
8 firearm or large capacity weapon for a duration of less than 48  
9 hours, provided, however that such firearm is rented or leased  
10 from a licensee who is licensed under the provisions of section  
11 122 and subject to the conditions described in section 123.

12 The provisions of this subsection shall not apply to the  
13 following persons and uses:

14 (1) Any law enforcement agency or authority;

15 (2) Any branch of the United States military, including the  
16 national guard;

17 (3) Any persons in any branch of the United States military or  
18 police officers and other peace officers who are acquiring firearms

19 for the purposes of performing their official duties or when duly  
20 authorized by their employer to purchase them;

21 (4) Any licensed watch, guard or patrol agency or their licensed  
22 employees in the course of their employment under sections 22  
23 and 25 of chapter 147;

24 (5) Any person who has been certified as a licensed collector  
25 by the criminal history systems board;

26 (6) A federal, state or local historical society, museum or insti-  
27 tutional collector open to the public;

28 (7) Any person who purchases, rents or leases a firearm or large  
29 capacity weapon and then exchanges it for another firearm or  
30 large capacity weapon provided by a licensed dealer within a 30  
31 day period;

32 (8) A firearms surrender program authorized by and in compli-  
33 ance with section 131O of this chapter.

34 Upon receipt of a record of a sale, rental or lease of a firearm or  
35 large capacity weapon from a licensee as required under section  
36 123 or a person without a license under section 128A, the execu-  
37 tive director of the criminal history systems board, or his agent,  
38 shall determine whether a person has purchased, rented or leased  
39 more than one firearm or large capacity weapon in any 30 day  
40 period in violation of this subsection. If a person has purchased,  
41 rented or leased more than one firearm or large capacity weapon  
42 in any 30 day period, the executive director of the criminal history  
43 systems board, or his agent, shall forward any records demon-  
44 strating the relevant acquisition history to the prosecutor in the  
45 county in which the person resides or where the second or addi-  
46 tional firearm or large capacity weapon was obtained in violation  
47 of this subsection.

48 A non-exempt person who purchases, rents or leases more than  
49 one firearm or large capacity weapon in any 30 day period shall  
50 be punished, for a first offense, by a fine of not more than \$1,000,  
51 or by imprisonment for not more than six months, or by both such  
52 fine and imprisonment; and for any subsequent offense shall be  
53 punished by a fine of not less than \$1,000 and not more than  
54 \$5,000, or by imprisonment for not more than two and one-half  
55 years, or by both such fine and imprisonment. The punishments  
56 under this subsection shall be separate from the procedures estab-

57 lished for the denial, revocation or suspension of firearm identifi-  
58 cation cards, licenses and permits provided under this chapter.

59 Any person or licensee who sells, rents or leases a firearm or  
60 large capacity weapon to a non-exempt person under this section,  
61 with actual knowledge that the person has purchased, rented or  
62 leased a firearm or large capacity weapon within the previous  
63 thirty days shall be punished, for a first offense, by a fine of not  
64 more than \$5,000 or by imprisonment of not more than two and  
65 one-half years, or by both such fine and imprisonment; and for  
66 any subsequent offense shall be punished by a fine of not less than  
67 \$1,000 and not more than \$10,000 or by imprisonment for not  
68 more than five years, or by both such fine and imprisonment.  
69 These punishments shall be separate from the procedures estab-  
70 lished for the denial, revocation or suspension of firearm identifi-  
71 cation cards, licenses and permits provided under this chapter.